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In re Application of
WILBERT et al.
Serial No.: 09/601,013
PCT No.: PCT/DE99/00369
Int. Filing Date: 17 February 1999
Priority Date: 18 February 1998
Attorney's Docket No.: None
For: DEVICE FOR TESTING THE
ELECTROMAGNETIC COMPATIBILITY OF SYSTEMS
HAVING LARGE DIMENSIONS

DECISION ON PETITION

UNDER 37 CFR 1.137(b)

This is in response to applicant's communication treated as a renewed petition to revive under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office (USPTO) on 07 January 2002 in the above-captioned application.

BACKGROUND

On 17 February 1999, applicant filed international application No. PCT/DE99/00369 which claimed priority of an earlier German application filed 18 February 1998. A copy of the international application was communicated to the United States by the International Bureau on 26 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 06 September 1999 prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 18 August 2000.

On 26 July 2000, applicant filed a Transmittal Letter requesting entry into the national stage in the United States of America under 35 U.S.C. § 371 along with credit card payment of \$840 for the basic national fee.

On 06 September 2000, a Notification of Missing Requirements was mailed to applicant indicating that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b) and a surcharge for filing the oath or declaration after the thirty month period was required.

On 12 June 2001, a Notification of Abandonment was mailed to applicant indicating that the application was abandoned for failure to respond to the 06 September 2000 Notification of Missing Requirements.

On 03 July 2001, applicant filed the instant petition to revive (Form PTO/SB/64) along with the declaration of the inventors and authorization to charge \$130 to applicant's credit card.

On 11 October 2001, a decision was mailed to applicant dismissing the petition to revive for failure to pay the proper petition fee.

On 07 January 2002, applicant filed the instant communication along with the executed declaration, petition fee and surcharge for filing the declaration after the thirty month period for a small entity.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional".

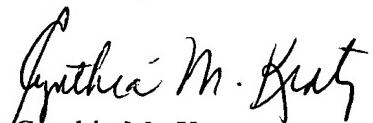
Applicant previously satisfied item (3) above. With regard to item (1), applicant has submitted the declaration executed by the joint inventors, Jan Wilbert and Harald Schwarz. With regard to item (2), the fee required by law for revival of an unintentionally abandoned application \$620 for a small entity has been paid.

A review of the application file reveals that the required petition fee of \$620 and \$65 surcharge have now been paid and thus, the requirements of 37 CFR 1.137(b) have been satisfied. Therefore, the request to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED**.

CONCLUSION

For the reasons discussed above, the petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing. The 35 U.S.C. 371(c) date is 07 January 2002.



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